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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

O.A. No.860/93

New Delhi, this the 17th day of January, 1994.

HON'BLE MR. J.P.SHARMA, MEMBER(J).

Shri J.R. Goel,
S/O: Late Shri Hargopal,
r/o: EA-208, Maya Enclave, G-8 Area,
New Delhi-110064 and working as
Joint Director (Finance), Steel Authority of
India Limited, Ispat Bhavan,
Lodhi Road, New Delhi-110003.

...Applicant

(By advocate : Shri B.S.Jain)

Versus

1. The Comptroller & Auditor General of India,
10, Bahadur Shah Zafar Marg, New Delhi.
2. The Accountant General (A&E), Punjab,
Chandigarh-160017 (Formerly A.G., Punjab,
Shimla).
3. Union of India,
through Secretary,
Department of Personnel & Training,
North Block, New Delhi-110001.

...Respondents

(By advocate : Shri N.S. Mehta)

ORDER (ORAL)

The applicant is working as Joint Director (Finance) in the Steel Authority of India Limited. The (Finance) in the Steel Authority of India Limited.

The applicant while serving in the Government of India as U.D.C. in the office of A.G., Punjab, Shimla, passed Subordinate Accounts Service Examination and was, therefore, promoted as SAS Accountant in December, 1963. He was also declared quasi-permanent and permanent government servant. He was ultimately selected in the Hindustan Steel Limited in January, 1966 and he was relieved of by A.G. Punjab, Shimla on

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29-2-68 and joined Hindustan Steel Limited, Ranchi on 1-3-68. In the year 1968, when the applicant joined public sector undertaking (PSU), there was no provision of allowing pro-rata retirement benefits to the retiring Government servant who joined on their volition. However, subsequently, by the O.M. of 21-4-72, the Government extended these benefits even to those who joined the PSU on their own volition, a copy of which is annexed to the application (annexure A-6). However, there still persists some anomaly and discrimination and subsequently another O.M. was issued on 25-3-77 by Department of Personnel (Annexure A-7) observing that all Government servants who are absorbed or have joined on their own volition in PSUs on or after 8-11-68 were made eligible for pro-rata retirement benefits. However, the actual benefits were allowed only from 1-8-1976. The applicant, however, joined on 1-3-1968.

2. The applicant has relied on the judgment of the Hyderabad Bench of the C.A.T. in the case of H.B.Lal where Division Bench allowed the application for his claim for pro-rata benefits by impugning D.O.P. O.M. dated 25-3-77 w.e.f. 1-8-76 for the service rendered by him ~~xxxxxxxxxxxxxxxxxxxxxxxxxxxx~~ in the Post and Telegraphs, Audit and Accounts Department, Kapurthala, from May 1952 to 11-12-1967. On the basis of the aforesaid judgment, the representation of the applicant was not favourably considered and was disallowed by the order dated 8-2-93 (Annexure A-4). The authorities have observed that in the aforesaid order that the distinction between absorption in public interest and own volition was removed by the OM

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of March 1977 and pension was allowed wef 1-8-76 and the case of the applicant is not covered obviously because this covered the period 8-11-68 to 21-4-72.

3. The applicant has prayed for the grant of the reliefs that the respondents be directed to extend the benefit of O.M. of 25-3-77 as has been given ~~to in the~~ case of H.B.Lal vide the judgment dated 14-4-1988 and the costs be allowed.

4. A notice was issued to the respondents who filed the reply and contested the application. The respondents have taken the plea of limitation as a preliminary objection on the ground that the applicant for the first time submitted his ~~application in~~ ^{representation} March, 1991. The respondents have also taken a number of other pleas in the reply but seeing to the reasoned order of the Division Bench of CAT, Hyderabad Bench in a similar case, those arguments ~~of~~ cannot have any force either on the fact or on law. The case of H.B.Lal is not even better than that ^{of} ~~the~~ present applicant in view of the fact that the applicant had joined PSU in March, 1968 while Shri H.B.Lal has joined in December, 1967. When the benefit has been accorded to H.B.Lal then the applicant is entitled to the same benefit belonging to the same service, it will be discriminatory and violative ^{of} Article 14 and 16 of the Constitution of India.

5. I subscribed to the view taken by the Division Bench of Hyderabad and need not repeat the arguments or reiterate the reasonings given in the judgment as I

fully subscribe to the view taken by that Bench.

6. On the point of limitation, the learned counsel for the applicant has referred to para 3 of the rejoinder (page 49 of the paper-book). The contention of the learned counsel is that the applicant has been making representations in the hope that the respondents themselves would grant the relief on the basis of a decided case of a similarly situated employee and in fact the last rejection was conveyed to the applicant by the impugned order dated 8-2-93. Since the matter was under consideration with the respondents and if he had come earlier for redress of his grievance, then the respondents could not have taken a view which they are expected to take in line with the judgment of the Hyderabad Bench. It is another matter that they have reached to different conclusion even after considering the judgment of the Hyderabad Bench. In view of this fact, I find that the limitation though gives a valuable right to the adversary should not be in the way of such an aggrieved person who only claims that the benefit be given to him what has been given to similarly situated person. In view of this, the point of limitation should not keep us in a way to deny the benefit to the applicant.

7. The learned counsel for the respondents has been heard at length and he advanced the arguments only which have been considered and have been reasonably explained in the judgment of the Hyderabad Bench.

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8. In view of the above facts and circumstances, application is allowed and the respondents are directed to grant the applicant pro rata pension w.e.f. 1-8-76 within a period of 3 months from the date of receipt of a copy of this Order. Parties to bear their own costs.

J. P. Sharma

(J.P.SHARMA)

MEMBER(J)

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